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September 8, 2000

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*ADDITIONAL PARTIES LISTED ON
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You are hereby notified that the Court has entered the following order:

No. 99-3297-OA Wisconsin Professional Police Association, Inc., et al. v. Lightbourn, et al.

The court having considered the motion for leave to file *amicus curiae* brief of the Employee Trust Funds Board and the Department of Employee Trust Funds (ETF); and the objections thereto filed by respondents, George Lightbourn, Jack C. Voight, and the Wisconsin Education Association Council,

IT IS ORDERED that the motion is denied. As the court stated in its order of February 10, 2000 denying the ETF petition for leave to commence an original action, they lack standing to challenge the constitutionality of the disputed legislation. In State v. City of Oak Creek, 2000 WI 9, 232 Wis. 2d 612, 605 N.W.2d 526, we reaffirmed the general rule that state agencies cannot challenge in court the constitutionality of a statute, subject to exceptions which, as we explained earlier, are not present in this case. This rule must also be applied to ETF's request to

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No. 99-3297-OA Wisconsin Professional Police Association, Inc., et al. v. Lighbourn, et al.

file an *amicus curie* brief. ETF states in its memorandum in support of the motion that it is not neutral in this case and that it does not want to "remain silent in the face of legislation that seeks to take assets of the Trust Fund and use them for non-trust purposes." It is therefore apparent that even *amicus curiae* participation would still place ETF in the prohibited position of attacking this legislation. .

Prosser, J., dissents.

Cornelia G. Clark
Clerk of Supreme Court

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